

Service Date: August 11, 2000

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER OF the Investigation)	UTILITY DIVISION
Into Qwest Corporation's)	
Compliance with Section 271 of the)	DOCKET NO. D2000.5.70
Telecommunications Act of 1996)	ORDER NO. 6254a

PROTECTIVE ORDER

Introduction and Background

1. On July 31, 2000, Qwest Corporation (Qwest) filed a motion for protective order and supporting brief in this docket. Qwest wrote in its motion: "The Commission's investigation in this matter may require, from time to time, the production of confidential business information, information which may constitute a trade secret under Montana law. Qwest requests the issuance of a protective order so the information may be provided, when necessary, to the Commission or any other party executing Exhibit "A" to the protective order."

2. The Commission's new rules on protective orders became effective on July 28, 2000 (ARM 38.2.5001 – 5030). Likely because of the timing of the effective date and the need to prepare a motion for protective order, Qwest did not file for a protective order under the new rules. Nonetheless, the Commission desires to immediately change its protective order regime to conform to the new rules. This change will result in little, if any, change to the substance of providing protection for confidential information. But it will result in certain language and process changes, and it will mean that most terms of protective orders will be included by reference to the rules.

3. Therefore, the Commission will consider Qwest's motion for protective order in this docket as if it had been made pursuant to ARM 38.2.5001 – 5030. To the extent Qwest's motion is not consistent with the rules, the rules are waived in this instance. For example, ARM 38.5.5007(3)(b) requires the movant to identify "item-by-item or by category of like items" the information for which protection is sought. Qwest did not comply with this rule, but simply asked that the order cover all information in the docket that may need protection. The Commission waives compliance with ARM 38.5.5007(3)(b) and, for Qwest, ARM 38.2.5010

(relating to the protection of additional information) in this docket, but such waiver does not mean the Commission will routinely waive these requirements in the future.

4. Also, it should be noted that the term "Exhibit 'A'," referring to the document signed by persons entitled to receive confidential information, will not be used under the new rules. Rather, persons receiving confidential information will sign "nondisclosure agreements" pursuant to ARM 38.2.5012. A nondisclosure agreement is attached to this order.

Order

5. The Commission determines that from time to time Qwest may be required to furnish information in this docket that could be confidential and subject to protection from public disclosure pursuant to § 69-3-105, MCA, and Article II, § 10 of the Montana Constitution. Therefore, the Commission grants Qwest's motion for a protective order and orders that information submitted to Qwest in accordance with this order be treated as "confidential information" under the terms of this order and Commission protective order rules, ARM 38.2.5001 – 5030. ARM 38.2.5001 – 5030, not yet codified by the Montana Secretary of State, are attached for the convenience of the parties. Parties other than Qwest who need to have information protected should comply with ARM 38.2.5010.

DONE AND DATED this 7th day of August, 2000, by a vote of 5 to 0

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chair

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

GARY FELAND, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Reconsideration of this order is not allowed. ARM 38.2.5008(2); ARM 38.2.4806(7). A challenge to this order may be made pursuant to ARM 38.2.5008(3).

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No. D2000.5.70, Order No. 6254a
Order Action Date August 7, 2000

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party